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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

IN RE: SPARACINO, Gina M.)
SERIAL NO: 10/723,000)) APPEAL NO. _____
FOR: AUXILIARY STIRRUP FOR SADDLE)) REPLY
FILED: November 26, 2003)) BRIEF ON APPEAL
GROUP ART UNIT: 3643))

To the Commissioner of Patents and Trademarks
Mail Code Appeal Brief - Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sirs:

In response to the Examiner's Answer dated July 20, 2005, Applicant presents the following comments for consideration by the Board.

CERTIFICATE OF MAILING BY EXPRESS MAIL

I hereby certify that this document and the documents referred to as enclosed therein are being deposited with the U. S. Postal Service in an envelope as "Express Mail Post Office to Addressee" addressed to: Commissioner of Patents, Mail Code Appeal Brief - Patents, P. O. Box 1450, Alexandria, VA 22313-1450, prior to 5:00 p.m. on 9 day of September, 2005.

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This application is directed to a simple invention: a horse saddle having an auxiliary stirrup located behind the primary stirrup to help a rider mount the horse. The Seal patent is the only prior art reference cited by the Examiner. Seal shows a saddle having an auxiliary stirrup in front of the primary stirrup. The main issue on appeal is whether Applicant's saddle and the Seal saddle are functionally equivalent.

A. Applicant's Evidence Has Not Been Considered

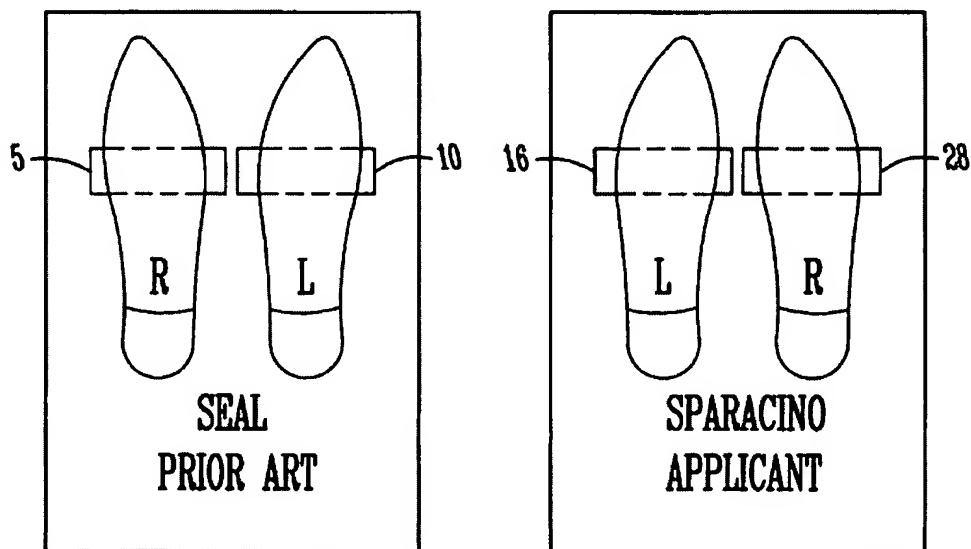
First and foremost, the Examiner's Answer completely ignores the evidence submitted by Applicant regarding the functional difference between Applicant's invention wherein the auxiliary stirrup is to the rear of the primary stirrup, and the Seal patent, wherein the auxiliary stirrup is in front of the primary stirrup. The Examiner has never addressed Applicant's video submitted on CD and the photographs taken from individual frames of the video, both of which were submitted to the Examiner during prosecution and to the Board of Appeals with Applicant's primary brief. Such evidence must be considered. MPEP § 2142. This evidence clearly shows that the rider using the Seal saddle necessarily crosses his/her legs upon mounting the horse, whereas the rider using Applicant's saddle does not cross his/her legs while mounting the horse. The Examiner has provided no rebuttal to this evidence. Therefore, based upon this evidence alone, the rejection of the claims should be reversed.

B. The Saddles of Applicant and Seal are Not Functionally Equivalent

Secondly, the Examiner states on pages 3 and 4 of her answer that the specification does not provide a critical reason why the auxiliary stirrup has to be mounted behind the primary stirrup. To the contrary, the Specification clearly states on page 4, paragraph 3 (cited by the Examiner on page 4 of her Answer), that by having "the foot loop 28 located below and behind the main stirrup 16, a rider can face the horse for mounting, which can be quickly and easily accomplished without a cross over step or crossing the legs." (*Emphasis added*).

The Examiner then states that this mounting process is the same as taught by the Seal patent wherein the rider faces the horse for mounting and without crossing his/her legs during mounting. However, it is clear in Figure 6 of Seal that the rider is not facing the horse, but rather has his back to the horse, with his left toe pointing away from the horse. In comparison, as seen in Figure 3 of the present application, the rider is, at a minimum, at least facing the same direction as the horse, which is a much easier start to the mounting process than facing away from the horse, as in Seal. While the Seal rider eventually turns and faces the horse, he is not doing so at the beginning of the mount.

The Examiner relies on the lack of disclosure in Seal of any cross over of the rider's legs during the mounting process. However, anyone skilled in the art of horse riding can quickly and easily tell that the Seal rider inherently and necessarily must cross his/her legs during mounting, because the right foot is in front of the left foot. This substantial difference between Applicant's saddle and the Seal saddle is easily understood by a simple demonstration wherein the primary and auxiliary stirrups are positioned on the ground, and then stepped into, as illustrated below.



The footprints on the left represent the prior art Seal patent wherein the auxiliary stirrup 5 and right foot of the rider are positioned in front of (or to the left of) the primary stirrup 10 and the left foot. By simply positioning your feet as shown the Seal footprints, your legs will be crossed. This awkward, crossed leg position exists, even if one foot is above the other, as with the primary and auxiliary stirrups of Seal.

In comparison, the right hand footprints correspond to Applicant's saddle with the auxiliary stirrup 28 and the rider's right foot positioned behind (or to the right of) the primary stirrup 16 and the rider's left foot. In this orientation, the rider's legs are not crossed, regardless of the height of the stirrups.

In short, whether you stand on the ground with your right foot to the left of your left foot, or step into the Seal stirrups with your right foot to the left of your left foot, your legs must cross. Thus, even though Seal does not show or describe such crossing of the rider's legs during mounting, leg crossing necessarily occurs, as is clearly shown by Applicant's video, and as clearly found when standing in the Seal footprints above.

C. Conclusion

For all of these reasons, the rejections of the claims should be reversed.

Respectfully submitted,



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CLAIM APPENDIX

Claim 1 (Original): An auxiliary saddle stirrup for facilitating mounting of a horse having a saddle secured thereon, comprising:
a strap having an upper end and a lower end, the upper end being attachable to the saddle at a location rearwardly remote from a primary stirrup on the saddle;
a foot loop on the lower end of the strap so as to be positioned behind and below the primary stirrup when the strap hangs down from the saddle.

Claim 2 (Original): The saddle stirrup of claim 1 wherein the strap has an adjustable length.

Claim 3 (Original): The saddle stirrup of claim 1 wherein the strap has at least two elongated members adjustably secured together so that the length of the strap may be altered.

Claim 4 (Original): The saddle stirrup of claim 3 further comprising a buckle to secure the elongated members together.

Claim 5 (Original): The saddle stirrup of claim 1 wherein the loop includes a friction surface to prevent slipping.

Claim 6 (Original): The saddle stirrup of claim 1 wherein the upper and lower ends each includes a snap to secure the ends together in a storage position.

Claim 7 (Original): The saddle stirrup of claim 1 wherein the upper and lower ends of the strap are adapted to be releasably connected together.

Claim 8 (Original): A saddle comprising:
a seat;
a primary stirrup hanging downwardly from the seat; and
an auxiliary stirrup hanging downwardly from the seat behind and below the primary stirrup.

Claim 9 (Original): The saddle of claim 8 further comprising a ring on the saddle behind the seat, the auxiliary stirrup being secured to the ring.

Claim 10 (Original): The saddle of claim 8 wherein the auxiliary stirrup has an adjustable length.

Claim 11 (Original): The saddle of claim 8 wherein the auxiliary stirrup has upper and lower ends adapted to be secured together in a storage position.

Claim 12 (Original): The saddle of claim 11 wherein each of the upper and lower ends includes a snap to snap the ends to one another.

Claim 13 (Original): The saddle of claim 8 wherein the auxiliary stirrup includes an elongated strap having an upper end and a lower end with a foot loop thereon.

Claim 14 (Original): The saddle stirrup of claim 13 wherein the strap has at least two elongated members adjustably secured together so that the length of the strap may be altered.

Claim 15 (Original): The saddle stirrup of claim 14 further comprising a buckle to secure the elongated members together.

Claim 16 (Original): The saddle stirrup of claim 13 wherein the loop includes a friction surface to prevent slipping.

Claim 17 (Original): The saddle of claim 13 wherein the upper end of the strap is releasably connected to the saddle seat.

Claim 18 (Original): A method for a rider to mount a horse having a saddle secured thereto, comprising:
placing the rider's right foot into a first stirrup hanging from the saddle; then

stepping up on the first stirrup; then
placing the rider's left foot into a second stirrup hanging from the saddle, the first stirrup
being behind and below the second stirrup, and without crossing the rider's legs; then
stepping up on the second stirrup,
removing the right foot from the first stirrup; and then
swinging the rider's right leg over the horse so that the rider is seated in the saddle.